

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ELIJAH T. MCDONALD,
Petitioner,
v.
LANDON BIRD,
Respondent.

No. 2:20-cv-00881-TLN-CKD

ORDER

Petitioner Elijah T. McDonald (“Petitioner”), a state prisoner proceeding *pro se*, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 25, 2021, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty-one days. (ECF No. 19.) Petitioner has filed objections to the findings and recommendations. (ECF No. 21.) However, Petitioner neither addresses the magistrate judge’s finding that his federal habeas petition is barred by the statute of limitations, nor does he request equitable tolling of the statute of limitations. (*Id.*)

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1 The Court presumes that any findings of fact are correct. *See Orand v. United States*, 602
2 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed *de novo*.
3 *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

4 The Court has reviewed the file and finds the findings and recommendations to be
5 supported by the record and by the magistrate judge's analysis.

6 Accordingly, IT IS HEREBY ORDERED that:

7 1. The Findings and Recommendations filed February 25, 2021 (ECF No. 19), are
8 ADOPTED IN FULL;

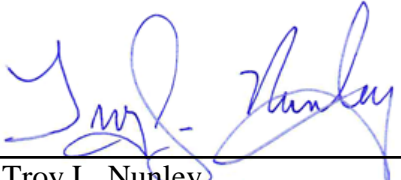
9 2. Petitioner's application for a writ of habeas corpus is DISMISSED with prejudice
10 because it was untimely filed; and

11 3. The Court declines to issue the certificate of appealability referenced in 28 U.S.C. §
12 2253.

13 IT IS SO ORDERED.

14 DATED: April 13, 2021

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Troy L. Nunley
United States District Judge